



April 10, 2015

ENGROSSED HOUSE BILL No. 1433

DIGEST OF HB 1433 (Updated April 8, 2015 1:43 pm - DI 87)

Citations Affected: IC 36-8.

Synopsis: Sheriff's merit board. Prohibit a relative of: (1) an active county police officer; or (2) the sheriff; from serving as a member of the sheriff's merit board.

Effective: Upon passage.

**Mahan, Smith M, McMillin,
DeLaney**

(SENATE SPONSORS — HEAD, HOLDMAN, WALKER, ARNOLD J,
RAATZ, LEISING)

January 14, 2015, read first time and referred to Committee on Government and Regulatory Reform.

February 17, 2015, amended, reported — Do Pass.

February 19, 2015, read second time, ordered engrossed. Engrossed.

February 23, 2015, read third time, passed. Yeas 94, nays 2.

SENATE ACTION

February 25, 2015, read first time and referred to Committee on Local Government.

April 9, 2015, amended, reported favorably — Do Pass.

EH 1433—LS 7119/DI 87



April 10, 2015

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1433

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-8-10-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The fiscal
3 body of each county shall, by ordinance, establish a sheriff's merit
4 board to be known as the _____ county
5 sheriff's merit board (inserting the name of the county).
6 (b) The board consists of five (5) members. Three (3) members shall
7 be appointed by the sheriff, and two (2) members shall be elected by a
8 majority vote of the members of the county police force under
9 procedures established by the sheriff's merit board. However:
10 (1) ~~no~~ **an** active county police officer;
11 (2) **a relative (as defined in IC 36-1-20.2-8) of an active county**
12 **police officer; or**
13 (3) **a relative (as defined in IC 36-1-20.2-8) of the sheriff;**
14 may **not** serve on the board, **either as a member appointed by the**

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1 **sheriff or elected by the county police force.** Appointments are for
2 terms of four (4) years or for the remainder of an unexpired term. Not
3 more than two (2) of the members appointed by the sheriff nor more
4 than one (1) of the members elected by the officers may belong to the
5 same political party. All members must reside in the county. All
6 members serve during their respective terms and until their successors
7 have been appointed and qualified. A member may be removed for
8 cause duly adjudicated by declaratory judgment of the circuit court of
9 the county.

10 (c) As compensation for service, each member of the board is
11 entitled to receive from the county a minimum of fifteen dollars (\$15)
12 per day for each day, or fraction of a day, that the member is engaged
13 in transacting the business of the board.

14 (d) As soon as practicable after the members of the board have been
15 appointed, they shall meet upon the call of the sheriff and organize by
16 electing a president and a secretary from among their membership.
17 Three (3) members of the board constitute a quorum for the transaction
18 of business. The board shall hold regular monthly meetings throughout
19 the year as is necessary to transact the business of the sheriff's
20 department.

21 **SECTION 2. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1433, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 14, begin a new paragraph and insert:

"SECTION 1. IC 3-5-9-4, AS ADDED BY P.L.135-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) ~~An individual who is serving as a volunteer firefighter for a volunteer fire department or a fire department that provides fire protection services to a unit:~~

(1) ~~under a contract, excluding a mutual aid agreement; or~~

(2) ~~as the unit's fire department;~~

~~may not assume or hold an elected office of a unit that receives fire protection services from the department in which the volunteer firefighter serves:~~

(b) ~~An individual who~~

(1) ~~is an employee of a unit, serving as a full-time, paid firefighter or~~

(2) ~~serves as a volunteer firefighter;~~

~~in a department that provides fire protection services to more than one (1) unit, excluding fire protection services provided under mutual aid agreements, may not assume or hold an elected office of any unit that receives fire protection services from the department.~~

SECTION 2. IC 3-5-9-6, AS ADDED BY P.L.135-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 6. This chapter does not prohibit:

(1) a government employee from assuming or holding an elected office of a unit other than the unit that employs the government employee;

(2) a full-time, paid firefighter ~~or volunteer firefighter~~ from assuming or holding an elected office of a unit other than a unit that receives fire protection services from the department in which the ~~volunteer~~ firefighter serves; or

(3) an individual who assumes or holds an elected office from also being appointed to and serving on a board, commission, or committee of the unit.

SECTION 3. IC 3-5-9-7, AS ADDED BY P.L.135-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) Notwithstanding sections 4 and 5 of this chapter,

(1) ~~a volunteer firefighter who assumes or holds an elected office~~



~~on January 1, 2013; may continue to hold the elected office and serve as a volunteer firefighter; and~~

(2) a government employee who assumes or holds an elected office on January 1, 2013, may continue to hold the elected office and be employed as a government employee until the term of the elected office that the ~~volunteer firefighter or~~ government employee is serving on January 1, 2013, expires.

(b) ~~After the expiration of the term of the elected office that the volunteer firefighter referred to in subsection (a) is serving on January 1, 2013; the volunteer firefighter is subject to section 4 of this chapter with respect to serving as a volunteer firefighter and assuming or holding an elected office of the unit that receives fire protection services from the department in which the volunteer firefighter serves.~~

(c) ~~(b)~~ After the expiration of the term of the elected office that the government employee referred to in subsection (a) is serving on January 1, 2013, the government employee is subject to section 5 of this chapter with respect to assuming or holding an elected office and being employed by the unit that employs the government employee.

SECTION 4. IC 6-1.1-17-3.5, AS AMENDED BY P.L.257-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3.5. (a) This section does not apply to taxing units located in a county in which a county board of tax adjustment reviews budgets, tax rates, and tax levies. This section does not apply to a taxing unit that has its proposed budget and proposed property tax levy approved under section 20, **20.2**, or 20.3 of this chapter or IC 36-3-6-9.

(b) This section applies to a taxing unit other than a county. Except as provided in section 3.7 of this chapter, if a taxing unit will impose property taxes due and payable in the ensuing calendar year, the taxing unit shall file the following information in the manner prescribed by the department of local government finance with the fiscal body of the county in which the taxing unit is located:

(1) A statement of the proposed or estimated tax rate and tax levy for the taxing unit for the ensuing budget year.

(2) In the case of a taxing unit other than a school corporation, a copy of the taxing unit's proposed budget for the ensuing budget year.

(c) In the case of a taxing unit located in more than one (1) county, the taxing unit shall file the information under subsection (b) with the fiscal body of the county in which the greatest part of the taxing unit's net assessed valuation is located.

(d) A taxing unit must file the information under subsection (b) before September 2 of a year.



(e) A county fiscal body shall complete the following in a manner prescribed by the department of local government finance before October 2 of a year:

- (1) Review any proposed or estimated tax rate or tax levy filed by a taxing unit with the county fiscal body under this section.
- (2) In the case of a taxing unit other than a school corporation, review any proposed or estimated budget filed by a taxing unit with the county fiscal body under this section.
- (3) In the case of a taxing unit other than a school corporation, issue a nonbinding recommendation to a taxing unit regarding the taxing unit's proposed or estimated tax rate or tax levy or proposed budget.

(f) The recommendation under subsection (e) must include a comparison of any increase in the taxing unit's budget or tax levy to:

- (1) the average increase in Indiana nonfarm personal income for the preceding six (6) calendar years and the average increase in nonfarm personal income for the county for the preceding six (6) calendar years; and
- (2) increases in the budgets and tax levies of other taxing units in the county.

(g) The department of local government finance must provide each county fiscal body with the most recent available information concerning increases in Indiana nonfarm personal income and increases in county nonfarm personal income.

(h) If a taxing unit fails to file the information required by subsection (b) with the fiscal body of the county in which the taxing unit is located by the time prescribed in subsection (d), the most recent annual appropriations and annual tax levy of that taxing unit are continued for the ensuing budget year.

(i) If a county fiscal body fails to complete the requirements of subsection (e) before the deadline in subsection (e) for any taxing unit subject to this section, the most recent annual appropriations and annual tax levy of the county are continued for the ensuing budget year.

SECTION 5. IC 6-1.1-17-20.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 20.2. (a) This section applies only to a unit in which the unit's executive or member of the unit's fiscal body serves as a volunteer firefighter for a volunteer fire department or a fire department that provides fire protection services to the unit in which the individual holds the elected office, under a contract (excluding a mutual aid agreement) or as the unit's fire department.**



(b) As used in this section, "unit" means a city, town, or township in a county not having a consolidated city.

(c) After the unit's fiscal body has adopted the unit's budget, the unit's fiscal body must submit its budget and property tax levies to the county fiscal body of the county in which the unit is located. The budget and property tax levies must be submitted to the county fiscal body according to a schedule adopted by the department of local government finance.

(d) The county fiscal body shall review the unit's budget and property tax levies and adopt a final budget and final property tax levies for the unit. The county fiscal body may reduce or modify, but not increase, the unit's budget and property tax levies.

(e) If a unit's fiscal body fails to submit the unit's budget and property tax levies as required in subsection (c) with the county fiscal body by the time prescribed in the schedule adopted by the department of local government finance, the most recent annual appropriations and annual tax levy of the unit are continued for the ensuing budget year.

(f) If the county fiscal body fails to complete the requirements of subsection (c) before the adoption deadline under section 5 of this chapter for the unit, the most recent annual appropriations and annual tax levy of the unit are continued for the ensuing budget year.

(g) A county fiscal body member who is a volunteer firefighter serving in the fire department in which the executive or member of the fiscal body is also a volunteer firefighter may not participate in a vote on the adoption of the unit's budget and tax levies.

(h) If at least a majority of the members of the county fiscal body that approve the unit's budget are volunteer firefighters serving in the fire department in which the unit's executive or fiscal body member is also serving as a volunteer firefighter, the unit's most recent annual appropriations are continued for the ensuing budget year. However, the county fiscal body may adopt any additional appropriations of the unit by ordinance before the department of local government finance may approve the additional appropriation.

SECTION 6. IC 6-1.1-18-5, AS AMENDED BY P.L.137-2012, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) If the proper officers of a political subdivision desire to appropriate more money for a particular year than the amount prescribed in the budget for that year as finally determined under this article, they shall give notice of their proposed additional



appropriation. The notice shall state the time and place at which a public hearing will be held on the proposal. The notice shall be given once in accordance with IC 5-3-1-2(b).

(b) If the additional appropriation by the political subdivision is made from a fund that receives:

(1) distributions from the motor vehicle highway account established under IC 8-14-1-1 or the local road and street account established under IC 8-14-2-4; or

(2) revenue from property taxes levied under IC 6-1.1;

the political subdivision must report the additional appropriation to the department of local government finance. If the additional appropriation is made from a fund described under this subsection, subsections (f), (g), (h), and (i) apply to the political subdivision.

(c) However, if the additional appropriation is not made from a fund described under subsection (b), subsections (f), (g), (h), and (i) do not apply to the political subdivision. Subsections (f), (g), (h), and (i) do not apply to an additional appropriation made from the cumulative bridge fund if the appropriation meets the requirements under IC 8-16-3-3(c).

(d) A political subdivision may make an additional appropriation without approval of the department of local government finance if the additional appropriation is made from a fund that is not described under subsection (b). However, the fiscal officer of the political subdivision shall report the additional appropriation to the department of local government finance.

(e) After the public hearing, the proper officers of the political subdivision shall file a certified copy of their final proposal and any other relevant information to the department of local government finance.

(f) When the department of local government finance receives a certified copy of a proposal for an additional appropriation under subsection (e), the department shall determine whether sufficient funds are available or will be available for the proposal. The determination shall be made in writing and sent to the political subdivision not more than fifteen (15) days after the department of local government finance receives the proposal.

(g) In making the determination under subsection (f), the department of local government finance shall limit the amount of the additional appropriation to revenues available, or to be made available, which have not been previously appropriated.

(h) If the department of local government finance disapproves an additional appropriation under subsection (f), the department shall



specify the reason for its disapproval on the determination sent to the political subdivision.

(i) A political subdivision may request a reconsideration of a determination of the department of local government finance under this section by filing a written request for reconsideration. A request for reconsideration must:

- (1) be filed with the department of local government finance within fifteen (15) days of the receipt of the determination by the political subdivision; and
- (2) state with reasonable specificity the reason for the request.

The department of local government finance must act on a request for reconsideration within fifteen (15) days of receiving the request.

(j) This subsection applies to an additional appropriation by a political subdivision that must have the political subdivision's annual appropriations and annual tax levy adopted by a city, town, or county fiscal body under IC 6-1.1-17-20, **IC 6-1.1-17-20.2**, or by a legislative or fiscal body under IC 36-3-6-9. The fiscal or legislative body of the city, town, or county that adopted the political subdivision's annual appropriation and annual tax levy must adopt the additional appropriation by ordinance before the department of local government finance may approve the additional appropriation.

(k) This subsection applies to a public library that:

- (1) is required to submit the public library's budgets, tax rates, and tax levies for nonbinding review under IC 6-1.1-17-3.5; and
- (2) is not required to submit the public library's budgets, tax rates, and tax levies for binding review and approval under IC 6-1.1-17-20.

If a public library subject to this subsection proposes to make an additional appropriation for a year, and the additional appropriation would result in the budget for the library for that year increasing (as compared to the previous year) by a percentage that is greater than the result of the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the calendar year minus one (1), the additional appropriation must first be approved by the city, town, or county fiscal body described in IC 6-1.1-17-20.3(c) or IC 6-1.1-17-20(d), as appropriate."

Delete pages 2 through 25.

Page 26, delete lines 1 through 23.

Page 26, line 42, delete "A" and insert "**An excluded city (as described in IC 36-3-1-7) or a**".

Page 26, line 42, delete "to" and insert "**in**".

Page 26, line 42, delete "section 9.5 of this chapter applies." and



insert **"the executive or a member of the fiscal body serves as a volunteer firefighter for a volunteer fire department or a fire department that provides fire protection services:**

(A) to the excluded city (as described in IC 36-3-1-7) or township in which the individual holds the elected office; and

(B) under a contract (excluding a mutual aid agreement) or as the unit's fire department."

Page 27, line 20, delete "If" and insert **"Except as provided in subsection (d), if"**.

Page 27, delete lines 29 through 42, begin a new paragraph and insert:

"(e) An excluded city or township under subsection (a)(7) must submit its budget and tax levies to the county fiscal body according to a schedule adopted by the department of local government finance. If the excluded city or township fails to submit its budget and property tax levies in accordance with the department of local government finance's schedule, the most recent annual appropriations and annual tax levy of the excluded city or township are continued for the ensuing budget year. If the county fiscal body fails to finally adopt the budget or tax levies by the adoption deadline in IC 6-1.1-17-5, the most recent annual appropriations and annual tax levy of the excluded city or township are continued for the ensuing budget year.

(f) A county fiscal body member who is a volunteer firefighter serving in the fire department in which the executive or fiscal body member of the excluded city or township is also a volunteer firefighter may not participate in a vote on the adoption of the budget and tax levies of the excluded city or township.

(g) If at least a majority of the members of the county fiscal body that approve the budget and tax levies of the excluded city or township are volunteer firefighters serving in the fire department in which the executive or fiscal body member is also serving as a volunteer firefighter, the excluded city's or township's most recent annual appropriations are continued for the ensuing budget year. However, the county fiscal body may adopt any additional appropriations of the excluded city or township by ordinance



before the department of local government finance may approve the additional appropriation."

Delete pages 28 through 50.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1433 as introduced.)

MAHAN

Committee Vote: yeas 9, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1433, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete amendment AM143306, as adopted by the Committee on Local Government on March 18, 2015.

Page 1, delete lines 1 through 14, begin a new paragraph and insert: "SECTION 1. IC 36-8-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The fiscal body of each county shall, by ordinance, establish a sheriff's merit board to be known as the _____ county sheriff's merit board (inserting the name of the county).

(b) The board consists of five (5) members. Three (3) members shall be appointed by the sheriff, and two (2) members shall be elected by a majority vote of the members of the county police force under procedures established by the sheriff's merit board. However:

(1) ~~no~~ an active county police officer;

(2) a relative (as defined in IC 36-1-20.2-8) of an active county police officer; or

(3) a relative (as defined in IC 36-1-20.2-8) of the sheriff;

may **not** serve on the board, **either as a member appointed by the sheriff or elected by the county police force.** Appointments are for terms of four (4) years or for the remainder of an unexpired term. Not more than two (2) of the members appointed by the sheriff nor more than one (1) of the members elected by the officers may belong to the same political party. All members must reside in the county. All members serve during their respective terms and until their successors



have been appointed and qualified. A member may be removed for cause duly adjudicated by declaratory judgment of the circuit court of the county.

(c) As compensation for service, each member of the board is entitled to receive from the county a minimum of fifteen dollars (\$15) per day for each day, or fraction of a day, that the member is engaged in transacting the business of the board.

(d) As soon as practicable after the members of the board have been appointed, they shall meet upon the call of the sheriff and organize by electing a president and a secretary from among their membership. Three (3) members of the board constitute a quorum for the transaction of business. The board shall hold regular monthly meetings throughout the year as is necessary to transact the business of the sheriff's department.

SECTION 2. An emergency is declared for this act."

Delete pages 2 through 9.

and when so amended that said bill do pass.

(Reference is to HB 1433 as printed February 17, 2015.)

HEAD, Chairperson

Committee Vote: Yeas 8, Nays 0.

